

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-5107-2015 (O&M)

Date of decision: 04.05.2015

Rajinder Kumar

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Kanisth Ganeriwala, Advocate
for the petitioner.

Mr. Daljit Singh Virk, AAG, Punjab.

RAMESHWAR SINGH MALIK, J. (ORAL)

Petitioner seeks bail pending trial in FIR No.91 dated 01.08.2012 under Sections 15, 25, 29, 61, 85 of NDPS Act, registered at Police Station Bahav Wala, District Fazilka.

Notice of motion was issued.

Learned counsel for the petitioner submits that identity of the petitioner has not been established in the present case. He was not arrested at the spot. He places reliance on the orders at Annexures P-2 to P-5 passed by this Court. Learned counsel for the petitioner further submits that the petitioner is also entitled for bail pending trial. He prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from ASI Sukhraj Singh, Police Station Bahav Wala, District Fazilka, submits that out of total 10 prosecution witnesses, 08 have already been examined. Next date of hearing before the learned trial Court is 19.05.2015.

He further submits that the petitioner remained proclaimed offender for one year. He did not surrender himself and he was taken on production warrants having been issued by the learned Judicial Magistrate 1st Class, Abohar. Learned counsel for the State concluded by submitting that had the petitioner not remained proclaimed offender for one year, trial would have been concluded much earlier. He submits that since the petitioner has been found involved in three more FIRs under NDPS Act itself, he is not entitled for bail pending trial. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that petitioner cannot claim parity on the basis of orders passed by this Court, at Annexures P-2 to P-5. It is so said because each case is to be decided on its own peculiar facts.

Since the petitioner himself is delaying the trial, he cannot seek benefit on that basis because he has been running away from the law. Now, since out of 10 prosecution witnesses, 08 have already been examined and only two are left to be examined, petitioner is not entitled for bail pending trial.

Without commenting any further, lest it should prejudice the rights of either of the parties, no case for bail pending trial is made out.

Dismissed.

[RAMESHWAR SINGH MALIK]
JUDGE

04.05.2015
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